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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/632,660	07/31/2003	Yehuda Azenko	TER-047	3563
26717	7590	09/20/2006	EXAMINER	
RONALD CRAIG FISH, A LAW CORPORATION PO BOX 820 LOS GATOS, CA 95032			TU, CHRISTINE TRINH LE	
			ART UNIT	PAPER NUMBER
			2138	

DATE MAILED: 09/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/632,660	AZENKO ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Christine T. Tu	2138	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 19 June 2006.
- 2a) This action is FINAL.                  2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) 26-31 is/are allowed.
- 6) Claim(s) 1-6,9,14,17-25 and 32-34 is/are rejected.
- 7) Claim(s) 7,8,10-13,15 and 16 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____.                                     |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____.   | 6) <input type="checkbox"/> Other: _____.                         |

Art Unit: 2138

1. Objection of the claims is withdrawn.
2. 35 U.S.C. 112, second paragraph rejection is withdrawn.
3. Claims 1, 9 and 14 are rejected under 35 U.S.C. 101 because the claimed invention is not supported by either a specific and substantial asserted utility or a well-established utility.

Claims 1, 9 and 14 is amended with the limitation of "resetting a flawed packet counter for said logical channel in response to changing noise conditions on the logical channel". Such limitation is not supported by the specification nor drawings.

The specification (on pages 8-9 of figures 2A & 2B, pages 10-12 of figures 3A & 3B, and pages 12-15) does not disclose the amended condition of "in response to changing noise conditions on the logical channel" for resetting the flawed packet counter. What being disclosed is just the resetting function of flawed packet counter (at lines 6-8 of page 8 and at lines 1-4 of page 13), and the process of resetting a signal-to-noise (SNR) averaging mechanism (at lines 27-28 of page 10).

In addition, figures 2A, 3A and 4A, only the process of resetting (total) flawed packet counter and the process of resetting signal-to-noise calculation mechanism. In other words, no drawing shows that the resetting is being performed in the condition of "in response to changing noise conditions on the logical channel".

Claim 1, 9 and 14 are also rejected under 35 U.S.C. 112, first paragraph. Specifically, since the claimed invention is not supported by either a specific and substantial asserted utility or a well established utility for the reasons set forth above, one skilled in the art clearly would not know how to use the claimed invention.

***Claim Rejections - 35 USC § 103***

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
5. Claims 1-6, 9, 14, 17-25 and 32-34 are again rejected under 35 U.S.C. 103(a) as being unpatentable over Anandakumar et al. (6,765,904 and Anandakumar hereinafter).

**Claims 1-6, 9, 14, 17-19, 20-25 and 32-34::**

The rationale for rejecting these claims is again the same as it was set forth in paragraph 5 of the previous office action which was mailed on March 22, 2006.

6. Claims 10-13 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
7. Claims 7-8 and 15-16 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.
8. Claims 26-30 are allowable over the prior arts of record.

***Response to Arguments***

9. Applicant's arguments filed June 19, 2006 have been fully considered but they are not persuasive.

For claim 1, applicant argues that Anandakumar does not teach or suggest the limitation of resetting a flawed packet counter for said logical channel in response to changing noise conditions on the logical channel. However, such amended limitation is not supported in the disclosure (see ¶ 3 above). Thus, the art rejection is still maintained as the previous office action (mailed on March 22, 2006).

For claim 20, applicant further argues that Anandakumar does not disclose or suggest the limitation of determining the prevalent type of noise on a logic channel. Examiner, however, respectfully traverses applicant's remark.

Firstly, applicant should aware that in claim 21, there is no particular type of noise being recited. What is being recited is "prevalent type of noise" and such a word "prevalent" means "widely existing"<sup>1</sup> which is a very broad term. Therefore, such a limitation of the recited "prevalent type of noise" is NOT actually recited with any particular type of noise.

Secondly, since applicant recited only a single type ("prevalent type (**singular**)" [at line 2 of claim 20]) of noise throughout the claim, it is not clear how this (prevalent) type of noise different from other types (NOT CLAIMED) of noise.

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<sup>1</sup> WEBSTER's II New Riverside University Dictionary.

Finally, base on the broad recited term "prevalent", Anandakumar's packet loss determination due to bit error in error in modem/satellite links (figure 16, step 1611, column 6 lines 45-46) is not excluded from the inclusion of the determining the recited "prevalent" type of noise.

**10. THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christine T. Tu whose telephone number is (571)272-3831. The examiner can normally be reached on Mon-Thur. 8:30am-6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Albert DeCady can be reached on (571)272-3819. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Christine T. Tu  
Primary Examiner  
Art Unit 2138

September 13, 2006